

MINUTES OF THE BOARD OF APPEALS
TOWN OF ANDOVER, MASSACHUSETTS

Memorial Hall Library, Elm Sq., Andover

June 12, 2007

APPROVED 7-25-07

There were present: Anderson, McDonough, Reilly, Jeton and Brown. Meeting opened at 7:38 pm.

PETITION NO. 3706

PETITIONER: Minh Huynh

PREMISES AFFECTED: 43 High Street

MEMBERS: Anderson, McDonough, Reilly, Jeton and Brown.

The Petitioner, Minh Huynh, represented himself in the public hearing for a request for a variance and/or special permit. The Petitioner would like to replace the existing front porch which is non-conforming, with an exact replica of the original porch, which was extended in 1967. The Historical Society has agreed to the replacement.

Reilly made a Motion to close the public hearing. Brown seconded the Motion and the Board voted unanimously (5-0) to close the public hearing. The Board then deliberated.

Brown made a Motion to issue the special permit and deny the request for a variance as moot. McDonough seconded the Motion and the Board voted unanimously (5-0) to issue the special permit and deny the variance. McDonough will write the decision.

PETITION NO. 3703

PETITIONER: Ivy Krull

PREMISES AFFECTED: 3 Cuba Street

MEMBERS: Anderson, McDonough, Reilly, Jeton and Brown

The Petitioner, Ivy Krull, represented herself in the public hearing for a request for a variance and/or special permit. The Petitioner would like to remove a portion of the house that is leaking and add a 2-story addition, which includes a larger kitchen, bedroom and bathroom. The Petitioner would also like to construct an in-law apartment with one bedroom, bathroom and living room, add a garage and renovate the existing bedroom and create a laundry on the 2nd floor. The pre-existing, non-conforming house is about 1900 square feet currently and the addition would add another 1700 square feet. The in-law apartment is for an elderly parent who cannot live alone due to medical issues.

Brown inquired which portion of the house was leaking. The deck above the kitchen is leaking into the kitchen. Brown also asked about the topography of the lot. The lot is slightly hilly and the house most affected by the addition sits higher up.

The abutters have reviewed the plans and have no objections. Mike and Linda Isaacs were present at the meeting and support the project.

Brown would like to visit the site. The public hearing was continued until June 23, 2007. The members will visit the site individually before June 23rd and then deliberate at 9:00 am on June 23, 2007.

PETITION NO: 3708

PETITIONER: Lara and Peter Johnson

PREMISES AFFECTED: 6 George Street

MEMBERS: Anderson, McDonough, Reilly, Jeton and Brown.

The Petitioners represented themselves in the public hearing for a request for a variance and/or special permit. The Petitioners would like to add a 2nd floor addition, which includes 3 bedrooms

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and 2 bathrooms. The first floor would be renovated and a screened porch added where the existing deck is currently located. The footprint of the building, which is non-conforming, will not change. The side setbacks are too close.

Brown asked when the house was built. The house was built in 1937.

McDonough made a Motion to close the public hearing. Reilly seconded the Motion and the Board voted unanimously (5-0) to close the public hearing. The Board then proceeded to deliberate. McDonough made a Motion to issue the special permit and deny the variance. Jeton seconded the Motion and the Board voted unanimously to issue the special permit and deny the variance. Jeton will write the decision.

PETITION NO. 3709

PETITIONERS: Joann and John Reck

PREMISES AFFECTED: 97 Chestnut Street

MEMBERS: Anderson, McDonough, Reilly, Jeton and Brown

Jeton disclosed that she lives 2 blocks away at 57 Chestnut Street. There were no objections to her remaining in the meeting.

The Petitioners represented themselves in the public hearing for a request for a variance and/or special permit. The Petitioners would like to construct an addition consisting of a kitchen and family room, 2nd floor master bathroom and closets, a screen porch and small deck.

The existing home was built in 1913 and the side of the home is too close, which makes it non-conforming. The existing deck will be removed and the footprint will be extended back 16 feet. The smaller deck and screen porch will be flush with the house, making the side setback less non-conforming. The garage will be moved also. The abutters are in support of the addition.

Jeton added that the addition is consistent with the homes in the neighborhood.

Brown would like the garage moved behind the house and deck so that it conforms to the bylaw.

Reilly made a Motion to close the public hearing. Brown seconded the Motion and the Board voted unanimously (5-0) to close the public hearing. The Board then proceeded to deliberate.

Brown made a Motion to issue the special permit with the condition that the garage be moved behind the house and deny the variance. McDonough seconded the Motion and the Board voted unanimously (5-0) to issue the special permit with the condition and deny the variance. Brown will write the decision.

PETITION NO. 3710

PETITIONER: Andover Village Associates, Inc.

PREMISES AFFECTED: 429-431 South Main Street

MEMBERS: Anderson, McDonough, Reilly, Jeton and Brown

The Petitioners, Bill and Ann Perkins and David Deloury, represented themselves at the public hearing for a request for a variance and/or special permit. The Petitioners would like to demolish the existing building and construct a new General Store with or without gas service.

David Deloury has worked with Bill Perkins on other projects. This property is residentially zoned and has been a legal, non-conforming gas station for the past 100 years. The residence was built at least 50 years ago. There is a use limitation on the property. The front 1/3 is limited to commercial use.

Bill Perkins explained that this will be an upscale General Store serving sandwiches, coffee and prepared foods. The downstairs of the building will be the store with receiving in the back and the upstairs will be the manager's office. Cigarettes will not be sold. He met with Kaija Gilmore, Building Inspector, about the gas pumps. She felt the Petitioners should propose what they would

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like. The proposed plans include the gas pumps, but the Petitioners are willing to remove them if necessary. Dermot Kelly has done traffic counts twice and it was down 2% the second time compared to the first.

Anderson inquired about the use of the 2nd floor because the plan shows 5 offices and a conference room. There will only be a manager's office and dry good storage. It is not for rental use.

Jeton asked about the parking calculations. There are 28 parking spaces. If the gas pumps were removed, the area would be landscaped. The porch will be covered with a few tables. There was a proposal by Dunkin' Donuts for the property, which would have had a much higher volume of traffic.

Brown asked why they did not build an office building. It would be too large of a footprint in a residential area. The Petitioners would like to build a business that will run cost effectively and not have to come back to the ZBA constantly.

Jeton asked if the hours of operation have been determined yet. The hours may be 6:00 am to 8:00 pm, but will vary once the store is opened and running.

Andrew Chapin-21 Regency Ridge- addressed the Board. He has lived at this address for about a year. The ability to get to downtown Andover is "painful". This General Store would fill a niche this neighborhood is sorely lacking. This idea is significantly better than a gas station. The development team has been upstanding, and Mr. Perkins is an impressive developer in the community.

Vicky Herlich-South Main Street- addressed the Board. She lives across the street from the site and is concerned about the lights, traffic and increase in trash, etc. This is also a school bus stop. She is very unclear on how this development will work. She is against the sale of lottery and alcohol. The increase of traffic will be a problem.

Anderson asked if there were any benefits to having the General Store close by. Part of the reason people chose to live in this neighborhood is because they have to drive to get what they need. It is a residential community with no commercial properties.

Matt Johnson-Boston Road- addressed the Board. He grew up in this neighborhood and went to Lund's gas station as a kid. The property is an abandoned gas station that is an eyesore. The proposed General Store is what used to be in Andover. This type of establishment will provide more protection for Rattlesnake Drive and South Main Street than any other proposals. The land will not stay undeveloped forever.

Bill Barnes-5 Rocky Hill Road-addressed the Board. The traffic situation with the Montessori School and Phillips Academy is already a problem. There has been 1 fatality in the area due to the traffic and there is no relief in sight. He does not want to encourage any more pedestrian traffic.

Ernest Baldwin – 2 Boston Road- addressed the Board. He also grew up in this neighborhood and used to catch the school bus at the gas station. He has lived in this neighborhood for 40 years. The neighborhood looks shabby with the abandoned lot. The current plan is an improvement to what is there now.

Fran Cooper-6 Rocky Hill Road- addressed the Board. The hours of operation and lighting are concerns. Lunds closed at 5:00 pm and had no lighting. Lighting is not conducive to residential

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area and she would prefer not to have gas pumps. Beer and wine sales are not conducive to the neighborhood either.

Don Peters-3 Mackenzie Court- addressed the Board. Right now there are pollutants, and leakage at the pumps are concerns. The General Store will benefit the community and may disperse some of the traffic.

Arthur Broussard-Rocky Hill Road-addressed the Board. There is too much traffic, the hours of operation and the store being open 7 days a week is all too much for a residential neighborhood. This is not the right place for a busy store. The lighting is also a concern. The potential traffic count of 400-600 cars per day in an area surrounded by homes is outrageous. In the winter months the emissions from the running cars will be an issue. The food service and dumpsters will attract rats and mice. The examples of the General Stores used by the Petitioners are not in residential areas. The sale of beer and wine are of concern. The proposed store is within 30 feet of the lot line of the home in the rear.

McDonough asked where did the vehicle car count come from. Other operating General Stores have provided the Petitioners with this information. The vehicles entering the store would already be in the traffic pattern, not making a special trip just to go to the store.

Gail Parent, a direct abutter, has spoken with Dave Deloury and is excited about something being done with the property.

Claire Frances-24 Boston Road- addressed the Board. She has lived at this address for 40-45 years. She used to get the school bus at the gas station and knew the Lundstroms very well. The building is an eyesore now and a nice building and store would be convenient. It would be nice to put something there that benefits the community. She is against the sale of cigarettes and liquor.

David Nagahiro-26 Rocky Hill Road- addressed the Board. Traffic is an issue, but some sort of mitigation would be nice. The store is preferred by the neighborhood versus nothing happening. The developer is committed to the community, he lives here and this is a good business plan.

Eve Flower-Boston Road- addressed the Board. The issues are the sale of alcohol, lottery tickets and cigarettes, the hours of operation, traffic and an entry and exit on South Main Street.

Anderson made a Motion to keep the hearing open.

McDonough asked that the sale of beer and/or wine be more identified since it seems to be an issue for many people in the neighborhood.

Anderson asked the Petitioners if the Board approved this with the condition of no alcohol, cigarette or lottery sales, would that go along with the food plan. With too many restrictions on the permit, this project may not be able to move forward. Beer and/or wine sales being restricted may make it not cost effective.

Reilly asked about the sale of lottery tickets. This is not a huge concern, but would like the flexibility to sell lottery tickets.

Jeton inquired as to what exactly is grandfathered on this property. There are extensions to existing non-conforming uses on a good faith basis that lawful non-conforming existing use is

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still in effect. The gas station can become a store because it is an ambient use. A replacement business is not more detrimental than the existing business; in fact it is less detrimental. All of the tanks and the oily soil have been removed and replaced with new soil brought in to fill the hole.

Anderson believed that traffic mitigation measures would be helpful. The Zoning Board can urge the Planning Board to look at the traffic safety conditions and mitigation.

The public hearing will be kept open until the July meeting at that time it will be closed and the Board will deliberate at that meeting.

McDonough made a Motion to approve the Minutes from April 5, 2007 and May 3, 2007. It was seconded by Reilly and unanimously approved.

Meeting adjourned at 9:38 pm.